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PALOMAR MEDICAL TECHNOLOGIES and THE GENERAL HOSPITAL CORPORATION

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

CUTERA, INC.,

Plaintiff,

v.

PALOMAR MEDICAL TECHNOLOGIES, INC.,
and THE GENERAL HOSPITAL
CORPORATION,

Defendants.

Case No.: C 05-2749 CW

**ORDER GRANTING STIPULATION
TO POSTPONE CASE
MANAGEMENT CONFERENCE**

Judge: The Honorable Claudia Wilken

STIPULATION

Pursuant to Civil Local Rules 6-2 and 7-11, Plaintiff Cutera, Inc. (“Cutera”) on the one hand and Defendants Palomar Medical Technologies, Inc. and the General Hospital Corporation (collectively “Defendants”) on the other hand, through their respective counsel of record, state as follows:

WHEREAS,

1. By Order entered September 2, 2005 (“the Stay Order”), this Court stayed the instant action pending resolution of Cutera’s Motion to Dismiss (“the Motion”) in *Palomar Medical Technologies, Inc. and The General Hospital Corporation v. Cutera, Inc.*, Civil Action No. 05-CV-10683-RWZ (“the Massachusetts Action”). Such stay is without prejudice to the Defendants to seek a further stay of the instant action if Cutera’s Motion is denied;

2. By Stipulation And Order To Postpone Case Management Conference entered November 1, 2005, the Case Management Conference (“CMC”) in the instant action was rescheduled from November 4, 2005 to January 6, 2006, because the Order to Stay kept the CMC on calendar but permitted the parties to postpone the CMC by 60 days if there had been no ruling in the Massachusetts Action;

3. By Stipulation And Order To Postpone Case Management Conference entered December 27, 2005, the CMC was rescheduled from January 6, 2006 to March 10, 2006, because the Order to Stay kept the CMC on calendar but permitted the parties to postpone the CMC by 60 days if there had been no ruling in the Massachusetts Action;

4. Under Civil Local Rule 16-9, as well as Federal Rule of Civil Procedure 26(f), the parties would normally submit a Case Management Statement and a Rule 26(f) report prior to a CMC;

5. There has been no ruling on Cutera’s Motion in the Massachusetts Action;

6. The parties do not know when a ruling might issue in the Massachusetts Action, or what that ruling might be, and therefore do not have sufficient information to prepare and submit a Case Management Statement or a Rule 26(f) report; and

1 7. Because there has been no ruling in the Massachusetts Action to date, the
2 parties desire, and seek the Court's permission, to continue the CMC currently scheduled for
3 March 10, 2006, for approximately another 60 days.

4 THEREFORE, Cutera and Defendants NOW STIPULATE AND AGREE to
5 continue the CMC to May 12, 2006, at 1:30 p.m. or such other date and time as the Court may
6 elect.

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8 Dated: March 7, 2006

WEIL, GOTSHAL & MANGES LLP

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11 By _____ /s/ JARED BOBROW
12 Attorneys for Plaintiff
CUTERA, INC.

13
14 Dated: March 7, 2006

HELLER EHRMAN LLP

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16 By _____ /s/ DANIEL N. KASSABIAN
17 Attorneys for Defendants
18 PALOMAR MEDICAL TECHNOLOGIES and
THE GENERAL HOSPITAL CORPORATION
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ORDER

PURSUANT TO THE STIPULATION, IT IS SO ORDERED. The CMC is continued to May 12, 2006 at 1:30 p.m.

Dated: 3/7/06

/s/ CLAUDIA WILKEN

THE HONORABLE CLAUDIA WILKEN
UNITED STATES DISTRICT JUDGE